THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO.17815 OF 2005

Date: 25-08-2005

Between:

K.Venugopala Reddy …Petitioner

And

The Prohibition and Excise Superintendent

and others …Respondents

THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO.17815 OF 2005

O R D E R:

This writ petition has been filed by one K.Venugopala Reddy with a prayer to issue Writ of Mandamus declaring the order passed by the Prohibition and Excise Superintendent, East Godavari District, Kakinada in R.C.No.369/2005/B1, dated 28-06-2005 as illegal, arbitrary, violative of the Constitutional provisions and contrary to A.P.Excise (Lease of Right of Selling by Shop & Conditions of License) Rules,

2005.

The petitioner is a licensee of an I.L shop in Rayavaram Village of Rayavaram Mandal. When the petitioner selected the premises other than that of permitted to establish I.L shop, proceedings have been issued by the Office of the Prohibition and Excise Superintendent, East Godavari District, Kakinada to choose another suitable premises, where there is habitation in Rayavaram village to avoid unnecessary complications in future. It appears that the order impugned in the writ petition came to be passed on the application of the licensee of I.L shop of Komaripalem village.

Heard the learned counsel for the petitioner. He submits that the petitioner has selected the premises in the area in which he has been authorized to carry on business under the license. He laid emphasis on the house tax receipts to convince the Court that the house is situated in inhabited place.

It appears that Excise Superintendent-1st respondent ascertained from the Sarpanch, Rayavaram that Door No.6-240 which has been shown by the petitioner as place of business does not belong to the proposed premises. I deem it appropriate to refer the relevant portion of the impugned order, which reads thus:

> *"The auction purchaser of Rayavaram (v) selected premises between Rayavaram and Komaripalem villages where is no habitation. The tendered amount for I.L.shop of Komaripalem village shop is Rs.12,22,222.22 where the population is less than 10,000, whereas the tendered amount for I.L.Shop of Rayavaram village is Rs.14,00,400/-, where the population is more than 10,000. When addressed about the confirmation of the door number of the proposed premises, the Sarpanch, Rayavaram stated that the door No.6-240 does not belong to the proposed premises. If the licence is granted at the place selected by the auction purchaser, the public of Komaripalem will go to that shop for consumption of liquor instead of going to Komaripalem village which will naturally affect the sale of liquor of the*

shop of Komaripalem village. The auction purchaser selected the premises with bad intention to grab the business of the neighbouring shop of Komaripalem village, by reducing the sale price of liquor."

Much argument has been advanced by the learned counsel for the petitioner that the house bearing No.6-240 exists in inhabited place. I am not inclined to examine whether the house bearing No.6-240 is situated in the inhabited place or uninhabited place since a statutory remedy is available to the petitioner under Section 63 of the Andhra Pradesh Excise Act, 1968 (for short "the Act") read with Rule 60 of the Andhra Pradesh Excise (Lease of Right of Selling by Shop and Conditions of License) Rules 2005 (for short "the Rules")

In this view of the matter, giving liberty to the petitioner to avail the remedy available under the Act and the Rules, within a period of thirty days from today, the writ petition is disposed of. No order as to costs.

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(B.SESHASAYANA REDDY,J)

Dated 25th August, 2005

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